



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*86 Chambers Street
New York, New York 10007*

January 26, 2017

By Email

Craig M. White, Esq. and Torello Calvani, Esq.
BakerHostetler
191 N. Wacker Drive, Suite 3100
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Re: *United States v. Equity Residential et al.*, 17 Civ. 274 (JPO)

Dear Mr. White and Mr. Calvani:

We write in response to your January 20 e-mail concerning the above-referenced Fair Housing Act ("FHA") case and to reiterate our request for a telephonic conference to discuss scheduling an inspection of 170 Amsterdam Avenue ("170 Amsterdam") in February.

By way of background, and as we previously discussed with you and Mr. Fiffer, the Government intends to seek a preliminary injunction in this case. In his discussions with us, Mr. Fiffer posited that a preliminary injunction is not necessary here for three reasons — *one*, because Equity Residential ("Equity") does not believe 170 Amsterdam has inaccessible conditions; *two*, because any inaccessible conditions that may exist at 170 Amsterdam are isolated, instead of widespread; and, *three*, because Equity's current FHA compliance procedures are already sufficient.

While the parties disagree about these matters, we believe these points of disagreements underscore the need for a prompt inspection of 170 Amsterdam. Such an inspection will provide a clear factual basis for assessing whether inaccessible conditions exist at 170 Amsterdam and, if so, whether they are widespread or isolated. It also will shed light on the sufficiency of Equity's current compliance procedures.

We also recognize that, as indicated in your January 20 e-mail, Equity would prefer for discovery to proceed in a different sequence. However, because Equity is actively constructing rental complexes like 455 I Street in Washington, D.C. and the Cascade in Seattle, we believe that it is critical for an inspection of 170 Amsterdam to take place promptly so that the parties — and if necessary, the Court — can determine whether a preliminary injunction is necessary to prevent the creation of inaccessible conditions at 455 I Street and the Cascade and, if so, what injunctive requirements should be imposed.

To help your client understand the parameters of the inspection we propose, enclosed is a draft of Rule 34 notice of inspection for 170 Amsterdam. As we previously advised Mr.

Encl.

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UNITED STATES OF AMERICA,

Plaintiff,

- v. -

EQUITY RESIDENTIAL and ERP
OPERATING L.P.,

Defendants.

17 Civ. 274 (JPO)

**THE GOVERNMENT'S FIRST
REQUEST FOR INSPECTION
TO DEFENDANT EQUITY
RESIDENTIAL**

PLEASE TAKE NOTICE that, pursuant to Rules 34(a)(2) of the Federal Rules of Civil Procedure, plaintiff the United States of America (the "Government"), by its attorney, Preet Bharara, the United States Attorney for the Southern District of New York, hereby requests that defendant Equity Residential ("EQR" or "YOU") permit entry onto the rental apartment building located at 170 Amsterdam Avenue, as possessed or controlled by EQR, so that the Government may, with the assistance of its retained experts and/or consultants, inspect, measure, survey, and photograph the property.

The Government's representatives, experts, and/or consultants shall conduct the inspection of 170 Amsterdam Avenue starting on February 13, 2017, and continuing through February 15, 2017, from 8:30 a.m. through 5:30 p.m. each day. More specifically, the areas and features of 170 Amsterdam Avenue subject to the inspection by the Government's representatives, experts, and/or consultants shall include:

1. All public and common areas, including but not limited to the public reception area, the leasing office, the outdoor garden, the children's playroom, laundry rooms, trash rooms, storage lockers, the on-site conference room, the fitness center, the resident lounge, the music practice room, and the yoga room; and
2. One sample unit of each unique type of the rental units (unique based on the total number of rooms in the unit, the types of rooms in the unit, the configuration of the unit, and the presence or lack of specific amenities, *e.g.*, in-unit terrace or in-unit washer/ dryer).

Dated: New York, New York
January x, 2017

PREET BHARARA
United States Attorney

By: /s/ Li Yu
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